

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA (CHARLESTON)

Lawrence Majewski,

Debtor.

Chapter 13
Case No. 25-00204

**ONEMAIN FINANCIAL GROUP, LLC'S RESPONSE TO DEBTOR'S
OBJECTION TO TIMELY SERVICE**

OneMain Financial Group, LLC ("OMFG") submits the following reply brief for the sole purpose of responding to the Motion for Failure of Service (ECF No. 35) filed by Debtor Lawrence Majewski, a/k/a Larry Majewski, (the "Debtor"). Debtor's sole response to OMFG's request for relief from the Automatic Stay is that OMFG failed to timely serve the Motion. However, review of OMFG's service demonstrates that no delay resulted from OMFG's conduct; but rather from the Debtor's failures.

The Federal Rules of Bankruptcy Procedure provides that service of process, any other document or notice is complete upon mailing. USCS Bankruptcy R 9006; *see Eagle Bus Mfg. v. Rogers*, 62 F.3d 730, 735 (5th Cir. 1995) ("These rules imply that correctly mailed notice creates a presumption that proper notice was given."); *In re De Weerd*, C.A. No. 16-05655-JW, 2017 Bankr. LEXIS 4616, *7 (Bankr. D.S.C. Mar. 16, 2017) (".... mail that is properly address, stamped, and deposited into the mails is presumed to be received by the addressee...."); and *In re Perkins*, C.A. No. 10-03041-JW, 2011 Bankr. LEXIS 576, *6 (Bankr. D.S.C. Feb. 8, 2011) (debtor's testimony that he did not receive the mailed copy of a motion for relief from stay alone is insufficient to rebut the presumption of service). For example, in *In re Tillman*, C.A. No. 17-60831-7, 2017 Bankr. LEXIS 3877, *16 (Bankr. D.Mont. Nov. 9, 2017), the court denied reconsideration of an order granting relief from stay based on debtor's challenge to the certificate

of service, because the difficulties that the debtor encountered receiving mail were attributable to the debtor's failure to maintain a mailbox at their mailing address and to retrieve mail from the post office after problems with their mailbox were encountered.

In this case, OMFG's counsel served the Motion for Relief from Stay by United States Mail on the Debtor at his designated address, 2090 Country Manor Drive, Mt. Pleasant, SC 29466-7411, on January 27, 2025. Proof of mailing alone under the Federal Bankruptcy Rules demonstrates that OMFG complied with the applicable service requirements. Any delays Debtor alleges in receiving the Motion for Relief from Stay are more likely attributable to the Debtor's failure to retrieve his mail in a timely manner. Without question, Debtor intended this bankruptcy petition to result in the cancellation of a foreclosure auction on 75 Pope Street, Newport, Rhode Island. Debtor's Rhode Island counsel e-mailed a copy of the docket for this case to OMFG's Rhode Island counsel on January 21, 2025 and stated: "Please cancel this sale as per this Chapter 13 filing." (Debtor's Counsel's E-mail, *Exhibit C*.) The Debtor cannot file a bankruptcy petition, demand cancellation of a valid and enforceable foreclosure, and then assume that OMFG will take no further action. The Debtor's prior experience with bankruptcy filings supports and inference that the Debtor knows exactly how creditors respond to bankruptcy petitions.

OMFG timely served the Motion for Relief from Stay in compliance with the Federal Rules of Bankruptcy. The Debtor raised no substantive objection to the relief sought, because no good faith objection exists. Therefore, this Court should deny the Debtor's opposition and grant relief from stay.

Respectfully submitted,

OneMain Financial Group, LLC

By: Its Attorneys

/s/ Siobhan Grant

Siobhan Grant (I.D. 14044)

HINSHAW & CULBERTSON LLP

2811 Ponce de Leon Blvd.

Suite 1000, 10th Floor

Coral Gables, FL 33134

305-428-5118

305-577-1063 (facsimile)

sgrant@hinshawlaw.com

Dated: February 14, 2025

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA (CHARLESTON)

Lawrence Majewski,

Debtor.

Chapter 13
Case No. 25-00204

CERTIFICATE OF SERVICE

I, Siobhan Grant, do hereby certify that on February 14, 2025, I filed through the Court's ECF system **OneMain Financial Group, LLC's Motion for Relief from Stay and for *in Rem* Relief**. A copy was served through the Court's ECF system on registered participating as identified on the Notice of Electronic filing (NEF) and on the attached service list by mailing a copy of same by First Class mail, postage prepaid.

Respectfully submitted,

One Main Financial Group, LLC

By: Its Attorneys

/s/ Siobhan Grant

Siobhan Grant (I.D. 14044)
HINSHAW & CULBERTSON LLP
2811 Ponce de Leon Blvd.
Suite 1000, 10th Floor
Coral Gables, FL 33134
305-428-5118
305-577-1063 (facsimile)
sgrant@hinshawlaw.com

Dated: February 14, 2025

Label Matrix for local noticing

0420-2

Case 25-00204-jd

District of South Carolina

Charleston

Fri Feb 14 13:42:36 EST 2025

Lawrence Majewski

2090 Country Manor Dr.

Mt. Pleasant, SC 29466-7411

Siobhan E. P. Grant

Hinshaw & Culbertson LLP

2811 Ponce de Leon Blvd

Suite 1000

Ste 10th Floor

Coral Gables, FL 33134-6916

OneMain Financial Group, LLC

Robertson, Anschutz, Schneid, Crane & Pa

13010 Morris Road., Suite 450

Alpharetta, GA 30004-2001

LVNV Funding LLC

Resurgent Capital Services

PO Box 10587

Greenville, SC 29603-0587

OneMain Financial Group, LLC

c/o Hinshaw & Culbertson LLP

2811 Ponce de Leon Blvd.

Suite 1000, 10th FL

Coral Gables, FL 33134-6924

Mary Powers

Robertson, Anschutz, Schneid, Crane & Pa

13010 Morris Road

Suite 450

Alpharetta, GA 30004-2001

US Trustee's Office

Strom Thurmond Federal Building

1835 Assembly Street

Suite 953

Columbia, SC 29201-2448

James M. Wyman

PO Box 997

Mount Pleasant, SC 29465-0997

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Sps Financial

End of Label Matrix

Mailable recipients 8

Bypassed recipients 1

Total 9